

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. Pathakokala Veena Devi D/o Rajarathnam, Korukonda (M), East Godavari District, against the proceedings issued by the District Collector, East Godavari No.C5(M)1469/ 2002, dt.13.10.2005 - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) – **Appeal Petition allowed** – Orders - Issued.

TRIBAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No.94

Dated:20.08.2016

Read the following:

1. Proceedings of the District Collector, East Godavari, Ref.No.C5(M) 1469/2002, dt.13.10.2005.
2. Appeal Petition filed by Smt. Pathakokala Veena Devi D/o Rajarathnam, Korukonda (M), East Godavari Dist., through her Advocate, before the M(SW) on dt:07.12.2005.
3. Govt. Memo No.9957/CV.2/2005, SW(CV.2) Dept., dt.08-12-2005 and reminders thereon.
4. From the District Collector, East Godavari, Lr.No.Ref.No.C5 (M) 945/2006, dt.17.08.2006.
5. Govt. Memo No. 9957/CV.2/2005, S.W.(CV.2) Dept., dt:16.07.2007, 01.08.2007, 06.11.2007, 19.03.2008, 22.07.2008, 01.05.2012, 19.02.2014, 20.05.2015 & 16.10.2015 .
6. Govt. Memo No.9957/CV.2/2005, S.W.(CV.2) Dept., dt:06.04.2016.
7. Written arguments filed by the Counsel for the Appellant before the Appellate Authority on 09.04.2016.

ORDER:

In the reference 1st read above the District Collector, East Godavari has issued orders canceling ST-Valmiki Caste Certificate obtained from the Revenue Authorities on various occasions by Smt. Pathakokala Veena Devi D/o Rajarathnam.

2. In the reference 2nd read above, Smt. Pathakokala Veena Devi D/o Rajarathnam has filed an Appeal Petition before the Government against the said Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the said Appeal Petition & granted stay on the said proceedings of the District Collector, East Godavari and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, East Godavari has furnished the Parawise remarks and connected records on the said Appeal Petition filed by Smt. Pathakokala Veena Devi D/o Rajarathnam.

4. The said Appeal Petition has been posted for hearing on 23.07.2007, 16.08.2007, 20.11.2007, 27.03.2008, 04.08.2008, 11.05.2012, 24.02.2014, 20.06.2015, 31.10.2015 & finally on 09.04.2016 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 5th & 6th read above. The Appellant and Counsel for the Appellant have attended the said hearing before the Hon'ble Appellate Authority and argued the case and explained her community status and filed Written Arguments before the Hon'ble Appellate Authority in support of her community claim in the reference 7th read above.

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5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari dated 13.10.2005, it is observed by the Appellate Authority that:

- I. The Appellant has stated that the District Collector ought to have considered the documents independently without relying on the observance of the DLSC, which was passed ignoring the material. The District Collector ought to have considered the additional material, papers with regard to the birth extracts of 1953 and 1965 of a female and male child born to Chavala Bullabai and Devudamma who are cousins of the appellant's mother, wherein their community recorded as Valmiki ST and the relationship shown in genealogical tree.
- II. The Appellant has stated that the Authorities have not even considered the material placed including the settlement register of the year 1932 which proves the residence of the ancestors of the Appellants much prior to 1956, to establish the appellant belonging to the Valmiki ST Community. The recommendations of the District Level Scrutiny Committee which have been totally followed by the 1st respondent without considering the observations of the DLSC and the findings based on the status of her mother as per the G.O.Ms No.371(SW) dt:13.4.1976.
- III. Further it is observed that the District Collector, East Godavari has reported that on the recommendations made by the Revenue Divisional Officer and MRO, Rampachdavaram, and on explanation of all recorded material the District Level Scrutiny Committee opined that Kum. P.Veena Devi was an offspring of inter caste married couple (SC MADIGA + SC MALA) and recommended to the Collector, to declare her caste as Sc MADIGA and also recommended to cancel her Valmiki(ST) caste certificates obtained from the Revenue Authorities. The cause of action arose on account of the complaints made against the caste status of Kum. P.Veenadevi D/o Rajaratnam. The Revenue Divisional Officer, Rampachodavaram conducted detailed enquiry and reported that in the S.R. of P.Rajaratnam, the father of the petitioner working as Head Master in M.P.P. School, Seethapalli village, his caste is recorded as Madiga(SC) and resident of Atreyapuram Mandal and her mother name is Chavala Bhaskara Bhushanam of Vanchangi village of Rajavommangi Mandal and her caste is mentioned as Mala(SC) in the birth register. He further reported that the father of the individual written the caste of his daughter in school records as Valmiki(ST) and got bogus community certificate from the MRO. Later the officials of the Commissioner of Tribal Welfare conducted detailed enquiry into the caste status of the individual. The Revenue Divisional Officer, Rampachodavarm requested to cancel the Valmiki community certificate issued to her as the S.R. and the birth and death records indicate that the father and mother belong to Madiga and Mala and matter was referred the District Level Scrutiny Committee to enquire into the caste as per the act 16/93.
- IV. Further it is observed that the DLSC has not examined all the recorded evidence filed by the appellant. The committee opined that the caste certificate is issued for the Chavala family are verified and found that their caste is recorded as "MALA". The certificates produced after 1950 are without any documentary support. The Committee observed that the school records can't be taken as authentic proof because the school authorities have no right to examine into the caste status of the pupil as per Government Memo No.18866/J1/90/13 SW Dept. dt:28.10.95. Hence the school records i.e., T.C, Study Certificates, conduct certificates & Nativity certificates cannot be taken into account to confirm the caste of the individual. Further the DLSC observed that settlement pattas LTRP Judgments cannot be taken into consideration to determine

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the caste of the individual as they may not represent the Genealogical tree. Hence the land records cannot be considered. There is no ban on residency in the Scheduled areas for the Non – Tribals. The mother side relatives in Agency area, belong to Mala(SC) as per birth extracts of 1937, 1944, 1943 & 1951 which relates to the “Chavala” surname. Thus the mother of the individual Viz; Chavala Bhaskara Bhushanam is Mala(SC). The entries do not support the caste of her mother. All extracts belong to relatives of the individuals mother. Hence the Valmiki(ST) caste certificate was issued to her, without detailed and proper enquiry. The District Level Scrutiny Committee finally concluded that the caste of the respondent is SC MADIGA as the respondent chosen the surname of paternal side i.e, Pathakokala.

- V. Finally the DLSC has observed that the Appellant is the daughter of P.Rajaratnam(Rampachodavaram) and Smt Chavala Bhaskara Bhushanam @ Sri Devi D/o Chavala Apparao of Vanchangi village of Rajavommangi Mandal. The Appellant's father belongs to Madiga(SC) and mother belong to Mala(SC) but not Valmiki(ST). The said inter-caste marriage of P.Rajaratnam and C.Bhaskara Bhushanam resulted the birth of appellant which clearly falls in the ambit of G.O.Ms No. 371, dated 13.04.76. The Appellant is an offspring of inter caste married couple. Hence the District Level Scrutiny Committee concluded that the caste of the appellant is SC Madiga.

6. Further it is observed that the counsel for Appellant argued seriously in stating that by the impugned order the principles of natural justice were violated and several documents filed by her which were prior to the year 1950 were also ignored which substantiate the fact that her mother and ancestors belong to ST Valmiki and that they hold immovable properties in agency tracts in view of the fact that they were a hill Tribes. After examination of the records/ the copies of evidences produced by the Appellant, the Appellate Authority has observed that:

- I. The bone of the contention of Appellant is that the mother of the Appellant is ST Valmiki and the genealogical tree of the appellant also proves that they are Scheduled Tribe Valmiki's and they have been resident of agency village i.e., Vanchangi Village and their ancestors had immovable properties and Chavala people are granted Chevala Apparao, Chevala Chinnaiah & Chevala Bodi Setty have documents such as Nativity certificates and settlement records which disclosed that they are of Valmiki caste, their habits, customs reveal that they are of Valmiki Community and Chavala people belong to ST Valmiki community and they are having marital relations with ST Valmiki people only. They are inhabitants of agency tracts for the last 200 years, they were granted settlement pattas. The grant of settlement pattas in 1932 to Chavala family in Vanchagi village of Rajavommangi mandal is one of the criteria of permanent residence in agency area and to identify their Tribal way of life in agency area from times immemorial.
- II. The Government by G.O.Ms.No.371, dated:13.04.1976 has held that the offspring of inter-caste marriages can claim “lower caste status” of the two castes of parents. More so where it lives with the parent who is of lower community and that the said lower community recognizes the child and mother as of their group. The father even if he belongs to SC MADIGA community, mother belongs to Chavala ST Valmiki community and her mother Chavala Bhaskara Bhushanam @ Sri Devi belongs to Valmiki ST. Her father Chavala Appa Rao and grandfather Chavala Bodi Setti, who are permanent residents of Vanchangi village of Rajavommangi Mandal are descendents of Chavala (dynasty) surname. Having gone through the entire record the Government is of considered opinion that the mother and her parents and ancestors are recorded as ST Vamiki. Several court cases mainly under land transfer regulation

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such as LTR.731/1988 held by Spl. Dy. Collector, Tribal Welfare, Rampachodavaram date:10.02.1988 to the effect that Chavala Babu Rao and Krishna Swamy are ST Valmiki. So also in the judgment dated:01.07.1978 in LTR.299/1972 by Deputy Collector, Tribal Welfare, Rampachodavaram, the said Krishna Swamy and Babu Rao are close relatives of the mother of the appellant. The genealogical table of Chavala Bodi Setti, the grandfather of appellant shows that they have properties in agency areas and they are hill tribes in agency areas, who include Valmiki's also. But Valmiki's are notified as ST Community.

- III. The Constitution of India in its Schedules did not include Valmiki as Scheduled Tribes in the year 1950, which resulted in lot of commotion in the Valmiki community as they were the real Hill Tribes and they were also very backward in all respects apart from the same they were the inhabitants of Agency Tracts and they have all the characteristics, which the ancient Tribes have. Consequently, by amendment to Constitution on and from 25.09.1956 a notification was issued making Valmiki Tribes also to be treated as Scheduled Tribes.
- IV. As per the genealogical table the Appellant's fore-fathers purchased/sold/otherwise alienated immovable properties in Agency Tracts, which were during the period 1917 and 1950. The Registered mortgage Deed Dt.06.08.1941 registered vide Document No.944/1941 of SRO Prathipadu, whereby the maternal great grand-father of the Appellant herein by name Chavala Bodisetti mortgaged his immovable property (settled in his favour in the year 1932), in favour of Ananthapalli Satyanarayana Murty, and the said document speaks volumes of the fact that the said Bodisetti was granted settlement Patta and that while enjoying the said property he mortgaged the same as stated supra. Apart from the same he was the native and resident of the Village Vanchangi is proved by the same and the Appellant herein is the daughter of Bhaskara Bhushanam @ Sri Devi and her Father Chavala Appa Rao, who is the son of the said Chavala Bodisetti. The Certified copy of the said Mortgage Deed is examined and compared with the photo copy placed in the record and found to be the same. Similarly, the grand-father of appellant also mortgaged (by usufructory mortgage) vide Document No.1331/1959 and document No.785/1961, the immovable properties held by him for his binding family necessities, wherein also the said Appa Rao is shown to be the native and resident of Vanchangi Village.
- V. Sri Chavala Katamaiah, Son of Bodisetti is having lands in the Village Vanchangi and he was also granted Pattadar Passbooks and Title Deed, which also disclose the fact that the said Chavala Katamaiah is ST Valmiki and he is the son of Venkanna, who is also the descendant of Chavla and he is shown in the Chavala Dynasty (Surname). The said Chavala Katamaiah has lands in Vanchangi and he is shown as ST Valmiki. The Certified copy of the Death Register of Chavala Appa Rao, the grandfather of the Appellant died on 10.01.1965 reveals he is a Valmiki. The brother of Chavala Appa Rao, by name Chavala Vasanthaiah died on 01.06.1950 which also shows that he is Valmiki. These are the Certified copies issued by the Revenue Authorities as Registrars of Births and Deaths.
- VI. The Chavala people were granted assignments/settlements of immovable property in Agency area even prior to independence considering the fact that they are Hill Tribes and they are being continued as Scheduled Tribe Valmiki and they are owning and enjoying the said immovable properties in Agency area, which cannot be ignored. Some of the "Chavala" people migrated from Vanchangi Village to Makavaram Village of Koyyuru Mandal of Visakhapatnam District and they are also being granted ST Valmiki Certificates and copies of birth certificates submitted in support of the same along with appellant's representation were also ignored by the learned Collector.

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- VII. The Sub-Collector as Incharge Spl. Dy. Collector, Tribal Welfare in LTR Petition No.299/1977 has held in his order Dt.07.04.1988 that Chavala people are ST Valmikis and that they are entitled for the benefits under APSALTR in case of prohibited transfer under Section 3 of the same. In the said order the Spl. Dy. Collector, has ordered for eviction of non-tribal respondent and ordered for restoration of the petitioned scheduled land therein to Chavala Raja Rao of Vanchagi Village and the said Chavala Raja Rao is the natural brother of the maternal grand-father of the appellant herein. The District Collector, East Godavari having held Chavala China Babu Rao as Scheduled Tribe, vide his orders in Ref.C1(M) 1511/86, dt.04.06.1986, has ordered for payment of compensation to his wife Chavala Suryakantham, when the said China Babu Rao was murdered, and the said document though was filed by the appellant before the learned Collector, he did not considered the same. The said Chavala China Babu Rao is the cousin (brother) of Appellant's mother.
- VIII. The Hon'ble Supreme court of India as reported in 1963 SC Page 677 has held that the judicial/quasi judicial authorities have a duty to act judicially and that any quasi judicial decision must satisfy the following criteria:
1. It is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rule;
 2. It declares rights or imposes upon parties obligation affecting their civil rights; and
 3. that the investigation, is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of evidence if a dispute be on questions of fact, and if the dispute be on question of law on the presentation of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.
 4. The District Collector who holds that the Appellant belongs to SC Madiga, ignored the fact that no such certificate was issued to her at any point of time previously. Further a certificate issued by a competent authority shall be presumed to be true and valid, till it is proved otherwise, as per the Rule 21 of Rules framed under AP Act 16 of 1993.
 5. Further the observation of primary authority that settlement pattas and LTR Judgments, cannot be considered in deciding the caste is grossly incorrect as the caste of the individual was the basis for grant of settlement pattas and LTR Judgments in Agency Tracts.
7. In view of the above facts and circumstances, the Government is of considered view that the order of Cancellation of caste certificate formerly issued in favour of the Appellant as ST Valmiki is not sustainable under Law and hence the order of the District Collector, East Godavari passed in Proceedings Ref.C5(M) 1469/2002, dt.13.10.2005 is liable to be interfered with. Further, the Government has no hesitation to hold that by the impugned order of District Collector, East Godavari, has ignored the principles of natural justice and has gone in haste cancelling her Caste Certificate. Even though the impugned order of learned Collector is very lengthy he has not considered, relevant aspects which obviously have the strength to reverse the finding, if they are considered. Therefore, the Government is opinion that the principles of natural justice should be followed at any rate and violation of the same would entail the subject order liable to interference.

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8. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), hereby allow the Appeal Petition filed by Smt. Pathakokala Veena Devi D/o Rajarathnam, by upholding her Scheduled Tribe(Valmiki) claim and the Proceedings of the District Collector, East Godavari issued in the reference 1st read above are set- aside.

9. Consequently, the District Collector, East Godavari shall take necessary action in the matter.

10. The records (containing Ref.No.C5(M) 1469/2002, dt.13.10.2005 pages 1 to 756) received from the District Collector, East Godavari through 4th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT(I/C)**

To

The District Collector, East Godavari (w.e)
(with original records) (BY RPAD)

Smt. Pathakokala Veena Devi D/o Rajarathnam,
Occ: Manda Parishad Development Officer,
Korukonda (M), East Godavari District.

M/s T.V.S. Prabhakar Rao, Advocate,
Flat No. 108, Mitri Vihar Appts.,Guptha Gardens,
Opp: T.V. Studio, Ramanthapur, Hyderabad.
The R.D.O., Rampachodavaram Division,
East Godavari District.

The Commissioner, Panchayat Raj, Hyderabad.

Copy to:

The Director, TCR & TI, Hyderabad.

The P.S. to M(SWE&TWE)

The P.S. to Prl. Secretary(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER